IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
APPEAL NO.170 OF 2007
IN
NOTICE OF MOTION NO.252 OF 2006
IN
SUIT NO.3520 OF 2005

Vithal S. Ghag .... Appellant
Vs.
Pandurang N. Kamat & Ors. .... Respondents

Shri I.R. Kulkarni for the Appellant.

Shri Rakesh Dave i/b M/s. N.N. Vaishnawa & Co. for the Respondents.

CORAM: R.M.S. KHANDEPARKAR &
D.G. KARNIK, JJ.

DATED: MARCH 21, 2007

P.C:

1. Heard. The appellant challenges the order dated 5-2-2007 passed in Notice of Motion No.252 of 2006 whereby Court Receiver has been appointed with the direction that the defendant No.3, who is the appellant herein, shall continue as the Receiver's agent on such terms and conditions as the Receiver may consider appropriate.

2. The order of appointment of Court Receiver has been made on account of failure on the part of the appellant to reveal the authority under which he occupies the suit stall. In spite of repeated queries, the learned

Advocate for the appellant is unable to point out any authority to the appellant to occupy the suit stall except making a statement that the appellant is in possession of the Shops & Establishment Licence and electricity bills. Merely because a party has got licence from the Shops & Establishment Department or that there is electricity connection provided to the premises, that itself does not create any right to the premises. The licence issued by the Shops & Establishment Department merely entitles the party to conduct either business or establishment. However, independently thereof the party has to disclose the title or right to occupy the premises and in the absence thereof, the learned single Judge having appointed Court Receiver and further protected the possession of the appellant to the extent to be the agent of the Receiver on such terms and conditions as the Receiver in the circumstances may find appropriate, we do not find any illegality committed nor there being any finding contrary to the materials on record or which can be said to be perverse, the impugned order does not warrant interference and hence the appeal fails and is hereby rejected.

3. At this stage, the learned Advocate for the appellant prays for stay of the impugned order. We do not find it appropriate to grant any such stay.

Besides, it is informed by the learned Advocate for the respondents that the Receiver has already taken possession in terms of the impugned order. Hence the prayer for stay is rejected.

(D.G.Karnik, J.) (R.M.S.Khandeparkar, J.)

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